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20
21 UNITED STATES DISTRICT COURT
22
23 NORTHERN DISTRICT OF CALIFORNIA
24
25 SAN FRANCISCO DIVISION

26 WAYMO LLC,

27 Case No. 17-cv-00939-WHA (JSC)

28 Plaintiff,

**DECLARATION OF RACHAEL E. MENY
IN SUPPORT OF NON-PARTY KEKER,
VAN NEST & PETERS LLP'S MOTION
FOR PROTECTIVE ORDER AND TO
QUASH SUBPOENA**

v.

29 UBER TECHNOLOGIES, INC., et al.,

30 Defendants.

31 Date: August 28, 2017
32 Time: 1:30 p.m.
33 Dept.: F—15th Floor
34 Judge: Hon. Jacqueline Scott Corley

35 Date Filed: February 23, 2017

36 Trial Date: October 2, 2017

1 I, RACHAEL E. MENY, declare and state that:

2 1. I am an attorney licensed to practice law in the State of California and am a partner
3 with the law firm of Keker & Van Nest LLP, located at 633 Battery Street, San Francisco,
4 California 94111, and am representing non-party Keker, Van Nest & Peters LLP (“KVP”) in
5 bringing the instant motion in the above-captioned action. I am admitted to practice law before
6 this Court. Except where expressly stated, I have knowledge of the facts set forth herein, and if
7 called to testify as a witness thereto, could do so competently under oath.

8 2. KVP is not a party, nor attorney of record, in the above-captioned action. Rather,
9 KVP is counsel-of-record for Google Inc. in the arbitration demands filed against two Otto co-
10 founders, including Anthony Levandowski, currently being adjudicated by JAMS.

11 3. Uber’s lawyers, Morrison and Foerster, have been aware of KVP’s involvement in
12 the arbitration against Levandowski since at least November 2016, when they appeared as
13 counsel for Levandowski in the arbitration. OT’s lawyers, Goodwin Proctor, have been aware of
14 KVP’s involvement in that arbitration since at least April 2017, when they became counsel for
15 Levandowski in the arbitration.

16 4. At 8:45 p.m. on Sunday, August 20, 2017, Neel Chatterjee, counsel for Otto
17 Trucking LLC, sent an email to me and my law partner Robert Van Nest, asking if we would
18 accept service of two subpoenas, one directed to KVP and the other to one of our attorneys,
19 Thomas E. Gorman. In that email, Mr. Chatterjee stated that Otto Trucking LLC was also “still
20 assessing whether [they needed] to secure [my] testimony” in addition to both KVP’s and Mr.
21 Gorman’s. A true and correct copy of Mr. Chatterjee’s email is attached hereto as **Exhibit A**.

22 5. On August 21, 2017, KVP accepted service of the KVP subpoena but reserved all
23 of its right, including to object to the subpoena or its date. The subpoena served on KVP seeks
24

documents and testimony, and the deposition was noticed for August 24, 2017 but that date has now been vacated. A true and correct copy of the KVP subpoena is attached hereto as **Exhibit B**.

6. The subpoena directed to Mr. Gorman subpoena was also noticed for August 24, 2017. This subpoena was never served. A true and correct copy of the subpoena directed to Mr. Gorman is attached hereto as **Exhibit C**.

7. My colleague, Jo Golub, participated in a conference call with counsel for Otto Trucking and Waymo, and with John Cooper, the assigned Special Master in the above-captioned matter, regarding these subpoenas. The Special Master approved the filing of this motion and set a briefing schedule with this brief due August 24, 2017 by midnight. Otto Trucking's brief in response is due by noon on August 27, 2017.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge, and that this declaration was executed on August 24, 2017, at San Francisco, California.

/s/ Rachael E. Meny
RACHAEL E. MENY